



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

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B-198266

August 8, 1980

[Claim by Coast Guard Member for Housing Allowances]

Mr. Charles E. Brady, Jr.
12023 Sherrill
Houston, Texas 77089

Dear Mr. Brady:

This letter is in response to yours dated May 20, 1980, requesting reconsideration of Comptroller General decision B-198266, May 9, 1980, which concerned the monetary settlement to be concluded with you as the result of the action taken by the Coast Guard Board for Correction of Military Records in 1978 to retroactively give you a Coast Guard warrant officer's appointment effective in 1967. In your letter you indicate that you have accepted the settlement of your claims against the Government incident to your retroactive promotion from petty officer to warrant officer, with the exception of your claim for Alaskan cost-of-living and housing allowances.

In your initial claim for those allowances, you stated the belief that if you had been appointed a warrant officer in 1967, you would then have been given a 36-month assignment to shore duty in Alaska, and you would have been paid the special cost-of-living and housing allowances authorized for some service members stationed ashore in Alaska during that 36-month period. Because the warrant officer appointment was withheld from you, you were instead actually given an 18-month assignment as a petty officer to duty aboard a ship in Alaskan waters between 1967 and 1969. You expressed the belief that an amount representing 36 months of Alaskan cost-of-living and housing allowances should therefore be included in the settlement of your monetary claims against the Government incident to the correction of your records to retroactively grant you a warrant officer's appointment. However, in our May 9, 1980 decision we denied your claim for those allowances for the reason that the Coast Guard Board for Correction of Military Records had only given you a retroactive promotion to the grade of warrant officer. The board had not changed your service records to show that you were stationed ashore in Alaska for 36 months, and your entitlement to cost-of-living and housing allowances was therefore

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for determination on the basis of your actual 18-month ship-board assignment.

In your letter of May 20 you ask why you were not at least granted an award of the allowances for the 18-month period you actually spent in Alaska. In that connection, you say that during the 18-month assignment you did not live aboard your ship at times when it was in port, and a Coast Guard Congressional liaison officer has advised your Representative in Congress that you would be eligible for those allowances. You therefore say that you would appreciate a ruling as to why you were not allowed to draw cost-of-living and housing allowances for the 18-month period you served in Alaska.

The statutory authority for the payment of the cost-of-living and housing allowances in question is ~~contained in section 405 of title 37, United States Code. That code section~~ provides that the service Secretaries concerned may authorize the payment of a per diem, considering all the elements of the cost of living to members of the uniformed services under their jurisdiction and their dependents, including the cost of quarters, subsistence and other necessary incidental expenses, to such a member who is on duty outside the United States or in Hawaii or Alaska, whether or not he is in a travel status. The intent of the statute was to authorize allowances for the purpose of defraying excess costs experienced by a service member on duty at a place outside the United States, and not to provide a special gratuity or bonus to all members stationed overseas. See 54 Comp. Gen. 333 (1974).

Regulations in effect since 1967 which have been issued pursuant to 37 U.S.C. 405 are contained in Volume 1 (chapter 4, part G) of the Joint Travel Regulations. ~~Those regulations (now and during the years 1967-69)~~ generally provide that a service member overseas unaccompanied by dependents is entitled to a prescribed cost-of-living allowance for each day during which a Government mess is not available to him at his permanent duty station, and those regulations further provide that a prescribed housing allowance is payable to such a member for any day upon which Government quarters are not available to him at his permanent duty station. However, unaccompanied ~~service members stationed aboard a ship, where they are provided food and quarters by the Government, are ordinarily not eligible for those allowances.~~

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It is our understanding that during your 18-month assignment to Alaska between 1967 and 1969 you were unaccompanied by dependents and your permanent duty station was a Coast Guard cutter with a home port at Kodiak. Your pay records reflect that Government meals and quarters were available to you at all times during this assignment, except for periods when you were on leave in the lower 48 United States, and that you were therefore not entitled to Alaskan cost-of-living or housing allowances. We understand that at times when your ship was in port you chose, as a matter of personal preference, to purchase meals and temporary lodgings on the local economy; however, your election to do that did not deprive you of the availability of Government quarters and meals or create an entitlement to any special monetary allowances. Furthermore, your retroactive 1967 promotion from petty to warrant officer by the Coast Guard Board for Correction of Military Records did not alter the fact that Government quarters and meals were available to you in Alaska between 1967 and 1969. Consequently you did not gain any previously non-existent entitlement to Alaskan cost-of-living and housing allowances through your promotion. Hence, your present claim for those allowances may not be paid.

We have spoken with the Coast Guard Congressional liaison officer who advised your Representative in Congress that you might be eligible to receive cost-of-living and housing allowances on the basis of your retroactive promotion from petty to warrant officer. He indicated that his response had been in general terms but that each individual case would be a matter for Coast Guard finance experts. As you know, Coast Guard disbursing officers made a determination that you were not entitled to those allowances. They referred your claim to our Office for final resolution after you expressed disagreement with their determination.

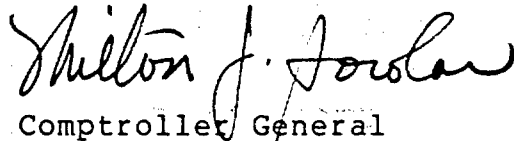
We regret that you are dissatisfied with the conclusion reached in our May 9, 1980 decision that you did not become entitled to Alaskan cost-of-living and housing allowances by virtue of your retroactive promotion from petty officer to warrant officer. Nevertheless, your letter contains no new material evidence or information which might properly serve as a basis for revising that decision, and we are accordingly

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unable to allow your claim for additional amounts incident to the promotion granted to you by the Coast Guard Board for Correction of Military Records.

We trust this will serve the purpose of your inquiry.

Sincerely, yours,

A handwritten signature in cursive script, reading "Milton J. Jordan". The signature is written in dark ink and is positioned above the typed name.

For The Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

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August 8, 1980

The Honorable Bill Archer
House of Representatives

Dear Mr. Archer:

Further reference is made to your letter dated June 4, 1980, with enclosure, concerning the request of your constituent, Chief Warrant Officer Charles E. Brady, Jr., USCG (Retired), 525-30-1637, 12023 Sherrill, Houston, Texas 77089. Mr. Brady asks for a review and reconsideration of Comptroller General decision B-198266, May 9, 1980, in which his claim for Alaskan cost-of-living and housing allowances incident to his retroactive promotion from petty officer to warrant officer was denied.

Enclosed please find a copy of our letter of today's date to Mr. Brady explaining the circumstances in which overseas cost-of-living and housing allowances are payable to service members; stating the reasons why he did not become entitled to those allowances by virtue of his retroactive promotion; and indicating to him that we have no basis for revising our May 9, 1980 decision in his case.

We trust this will serve the purpose of your inquiry and regret we were unable to reach a conclusion more favorable to Mr. Brady.

Sincerely yours,

A handwritten signature in cursive script, reading "Milton J. Jordan", is written over the typed name.

For The Comptroller General
of the United States

Enclosure